

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:20-cv-00376-MR-WCM**

SHERRI WILKES, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
vs.                 )         O R D E R  
                        )  
BUNCOMBE OPERATIONS, LLC     )  
d/b/a HARMONY AT REYNOLDS     )  
MOUNTAIN,             )  
                        )  
Defendant.         )  
                        )  
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**THIS MATTER** is before the Court on the following: the Defendant's Motion to Dismiss [Doc. 12]; the Magistrate Judge's Memorandum and Recommendation [Doc. 18]; and the Defendant's Objections to the Memorandum and Recommendation [Doc. 19].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On November 4, 2021, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a

recommendation regarding the Defendant's motion. [Doc. 18]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The Defendant timely filed Objections on November 18, 2021. [Doc. 19]. The Plaintiff filed her Response to the Defendant's Objections on December 2, 2021. [Doc. 20].

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby overrules the Defendant's Objections and accepts the Magistrate Judge's recommendation regarding the Motion to Dismiss.

**IT IS, THEREFORE, ORDERED** that the Defendant's Objections [Doc. 19] are **OVERRULED**, and the Memorandum and Recommendation [Doc. 18] is **ACCEPTED**.

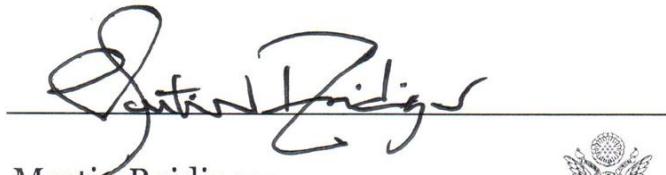
**IT IS FURTHER ORDERED** that the Defendant's Motion to Dismiss [Doc. 12] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- (1) The Defendant's Motion to Dismiss is **GRANTED** with respect to the Plaintiff's racial discrimination claim under Title VII, and such claim is **DISMISSED WITHOUT PREJUDICE** on the grounds that the Plaintiff has failed to exhaust her administrative remedies;

- (2) The Defendant's Motion to Dismiss is **GRANTED** with respect to the Plaintiff's racial discrimination claim under Section 1981, and such claim is **DISMISSED WITH PREJUDICE**; and
- (3) The Defendant's Motion to Dismiss is **DENIED** with respect to the Plaintiff's hostile work environment claim, and such claim shall be allowed to proceed.

**IT IS SO ORDERED.**

Signed: March 16, 2022



Martin Reidinger  
Chief United States District Judge

